

**First Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 25-0153.01 Chelsea Princell x4335

SENATE BILL 25-124

SENATE SPONSORSHIP

Kirkmeyer and Gonzales J.,

HOUSE SPONSORSHIP

Brown and Garcia Sander,

Senate Committees
Health & Human Services

House Committees

A BILL FOR AN ACT

101 **CONCERNING OUTPATIENT DRUGS THAT ARE SOLD AT A DISCOUNT TO**
102 **NONPROFIT HOSPITALS THROUGH THE FEDERAL 340B DRUG**
103 **PRICING PROGRAM.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires nonprofit hospitals (hospitals) to use 340B profits to decrease out-of-pocket costs for low-income patients.

The bill requires entities covered under the federal 340B drug pricing program that are hospitals licensed by the state to report information related to their participation in the 340B program, their use

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

of 340B program profits, their provision of charity care, their payments to third parties for 340B program-related services and compliance, and their use of contract pharmacies.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 3 to article 2.5 of title 25.5 as follows:

PART 3

SAVING PEOPLE MONEY ON
PRESCRIPTION MEDICATIONS ACT

25.5-2.5-301. Short title. THE SHORT TITLE OF THIS PART 3 IS "SAVING PEOPLE MONEY ON PRESCRIPTION MEDICATIONS ACT".

25.5-2.5-302. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS THAT:

(a) NONPROFIT HOSPITALS COVERED UNDER THE 340B PROGRAM USE 340B PROFITS TO DECREASE OUT-OF-POCKET COSTS FOR LOW-INCOME PATIENTS;

(b) FEDERALLY QUALIFIED HEALTH CENTERS, RYAN WHITE CLINICS, STATE AIDS DRUG ASSISTANCE PROGRAMS, AND CHILDREN'S HOSPITALS ARE REQUIRED TO REPORT CERTAIN REVENUE AND USE DATA TO THE BENEFIT OF THE COMMUNITIES THEY SERVE. NO SIMILARLY SITUATED REQUIREMENT EXISTS FOR NONPROFIT HOSPITALS COVERED UNDER THE 340B PROGRAM.

(c) REQUIRING HOSPITALS COVERED UNDER THE 340B PROGRAM THAT ARE LICENSED BY THE STATE TO REPORT INFORMATION RELATED TO THEIR PARTICIPATION IN THE 340B PROGRAM TO THE STATE WOULD CREATE PARITY IN THE USE OF 340B PROGRAM PROFITS.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT THE

1 STATE OF COLORADO HAS BOTH A SPECIFIED INTEREST IN AND PROPER
2 RESPONSIBILITY TO MONITOR NONPROFIT HOSPITALS COVERED UNDER THE
3 340B PROGRAM AND ENSURE THEY ARE APPROPRIATELY SERVING THEIR
4 COMMUNITIES AND THE TAXPAYER INTERESTS OF THE STATE.

5 **25.5-2.5-303. Definitions.** AS USED IN THIS PART 3, UNLESS THE
6 CONTEXT OTHERWISE REQUIRES:

7 (1) "340B DRUG" MEANS A COVERED OUTPATIENT DRUG, AS
8 DEFINED IN 42 U.S.C. SEC. 1396r-8 (k)(2), WHETHER SELF-ADMINISTERED
9 OR PROVIDER-ADMINISTERED, THAT IS SUBJECT TO REDUCED PRICES BY A
10 MANUFACTURER PURSUANT TO 42 U.S.C. SEC. 256b (a)(1) AND IS
11 PURCHASED BY A NONPROFIT HOSPITAL.

12 (2) "340B PROFITS" MEANS THE DIFFERENCE BETWEEN
13 AGGREGATED PAYMENTS RECEIVED FROM INSURERS, PAYERS, AND
14 SELF-PAYING PATIENTS FOR ALL 340B DRUGS AND AGGREGATED
15 ACQUISITION COSTS PAID FOR ALL 340B DRUGS.

16 (3) "340B PROGRAM" MEANS THE FEDERAL DRUG PRICING
17 PROGRAM DESCRIBED IN 42 U.S.C. SEC. 256b.

18 (4) "CHARITY CARE" MEANS FREE OR REDUCED-COST HEALTH
19 SERVICES PROVIDED BY A HOSPITAL TO PATIENTS WHO ARE UNABLE TO
20 PAY.

21
22 (5) "CONTRACT PHARMACY" MEANS A PHARMACY THAT A
23 NONPROFIT HOSPITAL HAS CONTRACTED WITH TO DISPENSE 340B DRUGS
24 ON BEHALF OF THE NONPROFIT HOSPITAL TO PATIENTS OF THE NONPROFIT
25 HOSPITAL, WHETHER DISTRIBUTED IN-PERSON, BY MAIL, OR BY OTHER
26 MEANS.

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1 (6) "NONPROFIT HOSPITAL" MEANS A HOSPITAL THAT IS LICENSED
2 BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT AND IS A
3 PRIVATE NONPROFIT CORPORATION OR HOSPITAL PURSUANT TO 42 U.S.C.
4 SEC. 256b (a)(4)(L), (a)(4)(M), OR (a)(4)(O), BUT DOES NOT INCLUDE A
5 SOLE COMMUNITY HOSPITAL DESCRIBED IN 42 U.S.C. SEC. 256b (a)(4)(O),
6 A CRITICAL ACCESS HOSPITAL DESCRIBED IN 42 U.S.C. SEC. 256b
7 (a)(4)(N), DENVER HEALTH AND HOSPITALS, A COMPREHENSIVE
8 HEMOPHILIA DIAGNOSTIC TREATMENT CENTER DESCRIBED IN 42 U.S.C.
9 SEC. 256b (a)(4)(G), A FEDERALLY-QUALIFIED HEALTH CENTER AS
10 DEFINED IN 42 U.S.C. SEC. 1396d (l)(2)(B), RYAN WHITE CLINICS, THE
11 COLORADO STATE DRUG ASSISTANCE PROGRAM, OR CHILDREN'S HOSPITALS
12 IN COLORADO.

13 **25.5-2.5-304. Use of 340B drug profits.** (1) A
14 NONPROFIT HOSPITAL SHALL NOT USE 340B PROFITS FOR THE FOLLOWING
15 PURPOSES:

16 (a) MORE THAN THIRTY-FIVE PERCENT OF TOTAL ANNUAL
17 COMPENSATION OR EXPENSE REIMBURSEMENT FOR THE NONPROFIT
18 HOSPITAL'S BOARD OF DIRECTORS;

19 (b) TAX PENALTIES OR FINES ISSUED AGAINST THE NONPROFIT
20 HOSPITAL;

21 (c) EXPENSES RELATED TO ADVERTISING AND PUBLIC RELATIONS
22 THAT PROMOTE THE NONPROFIT HOSPITAL'S IMAGE, SERVICES, OR
23 PROPOSALS, NOT INCLUDING COMMUNICATIONS REQUIRED BY LAW OR
24 THAT ARE ESSENTIAL FOR PATIENT SAFETY AND PATIENT INFORMATION;

25 (d) LOBBYING EXPENSES AND OTHER COSTS INTENDED TO
26 INFLUENCE LEGISLATION OR BALLOT MEASURES AT THE LOCAL, STATE, OR
27 FEDERAL LEVEL;

1 (e) TRAVEL, LODGING, FOOD, OR BEVERAGE EXPENSES FOR THE
2 NONPROFIT HOSPITAL'S BOARD OF DIRECTORS AND OFFICERS; AND

3 (f) GIFTS OR ENTERTAINMENT EXPENSES.

4 **25.5-2.5-305. Hospital transparency reporting.** (1) BEGINNING
5 JULY 1, 2026, AND BY JULY 1 EACH YEAR THEREAFTER, A NONPROFIT
6 HOSPITAL SHALL SUBMIT A REPORT TO THE STATE DEPARTMENT ON
7 BEHALF OF THE NONPROFIT HOSPITAL AND EACH OFF-SITE FACILITY
8 ASSOCIATED WITH THE NONPROFIT HOSPITAL IN THE FORM AND MANNER
9 DETERMINED BY THE STATE DEPARTMENT. THE REPORT MUST CONTAIN
10 THE FOLLOWING INFORMATION REGARDING THE PRIOR YEAR:

11 (a) DELINEATED BY FORM OF INSURANCE OR PAYER TYPE,
12 INCLUDING MEDICAID, MEDICARE, COMMERCIAL INSURANCE,
13 SELF-INSURED EMPLOYERS, AND UNINSURED:

14 (I) AGGREGATED ACQUISITION COSTS PAID FOR 340B DRUGS USED
15 TO CALCULATE 340B PROFITS;

16 (II) AGGREGATED PAYMENTS RECEIVED FROM INSURERS, PAYERS,
17 AND SELF-PAYING PATIENTS FOR ALL 340B DRUGS THAT WERE USED TO
18 CALCULATE 340B PROFITS; AND

19 (III) TOTAL NUMBER OF PRESCRIPTIONS AND THE PERCENTAGE OF
20 THE NONPROFIT HOSPITAL'S PRESCRIPTIONS THAT WERE FILLED USING
21 340B DRUGS;

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23 (b) TOTAL OPERATING COSTS OF THE NONPROFIT HOSPITAL AND
24 ITEMIZED COSTS RELATED TO PROVIDING CHARITY CARE; AND

25 (c) TOTAL PAYMENTS MADE TO:

26 (I) CONTRACT PHARMACIES FOR 340B PROGRAM-RELATED
27 SERVICES AND OTHER FUNCTIONS;

1 (II) THIRD-PARTY ADMINISTRATORS FOR MANAGING ANY
2 COMPONENTS OF THE NONPROFIT HOSPITAL'S 340B PROGRAM; AND

3 (III) ANY OTHER THIRD PARTY IN CONNECTION WITH 340B
4 PROGRAM-RELATED COMPLIANCE, LEGAL, EDUCATIONAL, OR
5 ADMINISTRATIVE COSTS.

6 (2) AN OFFICER OF THE NONPROFIT HOSPITAL SHALL CERTIFY THE
7 COMPLETENESS AND ACCURACY OF THE REPORT SUBMITTED PURSUANT TO
8 SUBSECTION (1) OF THIS SECTION.

9 (3) THE STATE DEPARTMENT SHALL COLLECT THE REPORTS
10 DESCRIBED IN SUBSECTION (1) OF THIS SECTION TO PREPARE A REPORT
11 DETAILING INFORMATION RECEIVED FROM NONPROFIT HOSPITALS,
12 INCLUDING 340B PROGRAM REVENUE ACROSS ALL NONPROFIT HOSPITALS
13 IN THE STATE. BEGINNING SEPTEMBER 15, 2026, AND EACH SEPTEMBER 15
14 THEREAFTER, THE STATE DEPARTMENT SHALL SUBMIT THE AGGREGATED
15 REPORT TO THE GENERAL ASSEMBLY AND PUBLISH ALL REPORTS
16 SUBMITTED BY A NONPROFIT HOSPITAL PURSUANT TO SUBSECTION (1) OF
17 THIS SECTION ON A PUBLICLY ACCESSIBLE WEBSITE.

18 **25.5-2.5-306. Access to 340B drugs.** UNLESS THE RECEIPT OF
19 340B DRUGS IS PROHIBITED BY THE FEDERAL DEPARTMENT OF HEALTH
20 AND HUMAN SERVICES, A MANUFACTURER, WHOLESALER, THIRD-PARTY
21 LOGISTICS PROVIDER, OR REPACKAGER, OR AN AGENT, CONTRACTOR, OR
22 AFFILIATE OF A MANUFACTURER, WHOLESALER, THIRD-PARTY LOGISTICS
23 PROVIDER, OR REPACKAGER, INCLUDING AN ENTITY THAT COLLECTS OR
24 PROCESSES HEALTH INFORMATION, SHALL NOT, DIRECTLY OR INDIRECTLY,
25 DENY, RESTRICT, PROHIBIT, DISCRIMINATE AGAINST, OR OTHERWISE LIMIT
26 THE ACQUISITION OF A 340B DRUG BY, OR DELIVERY OF A 340B DRUG TO,
27 A HOSPITAL THAT IS EITHER A SOLE COMMUNITY HOSPITAL DESCRIBED IN

1 42 U.S.C. SEC. 256b (a)(4)(O) OR A CRITICAL ACCESS HOSPITAL
2 DESCRIBED IN 42 U.S.C. SEC. 256b (a)(4)(N).

3 **25.5-2.5-307. Request of information.** (1) BEGINNING
4 NOVEMBER 1, 2026, AND ANNUALLY THEREAFTER, THE JOINT BUDGET
5 COMMITTEE SHALL ISSUE A REQUEST FOR INFORMATION TO THE STATE
6 DEPARTMENT REQUESTING INFORMATION ON ANY LOSSES AND COSTS TO
7 THE STATE MEDICAL ASSISTANCE PROGRAM ARISING FROM NONPROFIT
8 HOSPITAL PURCHASES OF 340B DRUGS AND NONPROFIT HOSPITAL
9 PRACTICES RELATED TO PARTICIPATION IN THE 340B PROGRAM.

10 (2) BEGINNING NOVEMBER 1, 2026, AND ANNUALLY THEREAFTER,
11 THE JOINT BUDGET COMMITTEE SHALL ISSUE A REQUEST FOR INFORMATION
12 TO THE DEPARTMENT OF PERSONNEL AND ADMINISTRATION ON ANY
13 LOSSES AND COSTS TO THE STATE MEDICAL ASSISTANCE PROGRAM ARISING
14 FROM NONPROFIT HOSPITAL PURCHASES OF 340B DRUGS AND NONPROFIT
15 HOSPITAL PRACTICES RELATED TO PARTICIPATION IN THE 340B PROGRAM,
16 INCLUDING THE TOTAL AGGREGATE VALUE OF LOST MANUFACTURER
17 REBATE REVENUE.

18 **25.5-2.5-308. Enforcement.** (1) A VIOLATION OF THIS PART 3 IS
19 CONSIDERED AN UNFAIR AND DECEPTIVE TRADE PRACTICE PURSUANT TO
20 SECTION 6-1-105 AND SUBJECT TO ENFORCEMENT BY THE ATTORNEY
21 GENERAL.

22 (2) THE ATTORNEY GENERAL MAY INVESTIGATE AND BRING A CIVIL
23 ACTION AGAINST THE NONPROFIT HOSPITAL IN A COURT OF COMPETENT
24 JURISDICTION FOR A VIOLATION OF THIS PART 3.

25 (3) THE ATTORNEY GENERAL SHALL ESTABLISH A PROCESS FOR
26 INDIVIDUALS TO REPORT SUSPECTED VIOLATIONS OF THIS PART 3 TO THE
27 ATTORNEY GENERAL AND A PROCESS FOR THE ATTORNEY GENERAL TO

1 PROMPTLY AND FULLY INVESTIGATE REPORTS OF SUSPECTED VIOLATIONS.

2 **SECTION 2.** In Colorado Revised Statutes, 6-1-105, **add** (1)(iii)
3 as follows:

4 **6-1-105. Unfair or deceptive trade practices - definitions.**

5 (1) A person engages in a deceptive trade practice when, in the course of
6 the person's business, vocation, or occupation, the person:

7 (iii) VIOLATES PART 3 OF ARTICLE 2.5 OF TITLE 25.5.

8 **SECTION 3.** In Colorado Revised Statutes, 24-31-101, **amend**
9 (1)(i)(XXII) and (1)(i)(XXIII); and **add** (1)(i)(XXIV) as follows:

10 **24-31-101. Powers and duties of attorney general.** (1) The
11 attorney general:

12 (i) May independently initiate and bring civil and criminal actions
13 to enforce state laws, including actions brought pursuant to:

14 (XXII) Part 14 of article 12 of title 38; ~~and~~

15 (XXIII) Section 24-34-806; AND

16 (XXIV) PART 3 OF ARTICLE 2.5 OF TITLE 25.5.

17 **SECTION 4. Safety clause.** The general assembly finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, or safety or for appropriations for
20 the support and maintenance of the departments of the state and state
21 institutions.